

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 046 6277

Password: 806528

Meeting URL: <https://cacb.zoomgov.com/j/1610466277>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

10:00 AM

2:21-16819 Jesus Salvador Perez

Chapter 7

#1.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 17

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT...

Jesus Salvador Perez

Chapter 7

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Party Information

Debtor(s):

Jesus Salvador Perez

Represented By
Stanley D Bowman

Movant(s):

Deutsche Bank National Trust

Represented By
Erin M McCartney

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

10:00 AM

2:21-17118 Andras Babero

Chapter 13

#2.00 [CASE DISMISSED ON 10/20/21]

Hrg re: Motion for Relief from Stay [RP]

LONNE C. LINDELL
vs
DEBTOR

Docket 20

Tentative Ruling:

The tentative ruling is to (i) grant the motion in part and confirm that the automatic stay does not apply because this case has been dismissed, which terminates the automatic stay (see 11 U.S.C. 349(b)(3) & 362(c)), and alternatively because no continuance of the automatic stay was sought or granted (see 11 U.S.C. 362(c)(3)), (ii) confirm that no 14-day stay of the order applies under Rule 4001(a)(3); and (iii) continue this matter to 11/16/21 at 10:00 a.m. with respect to Movant's request for one-year "*in rem*" relief, to address the issues set forth below. Appearances are not required on 11/9/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that Movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

**United States Bankruptcy Court
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CONT... Andras Babero

Chapter 13

Reasons for continuance:

Service is inadequate

The motion papers were not served:

To Debtor both (a) through counsel and (b) directly. The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor directly ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Party Information

Debtor(s):

Andras Babero

Represented By
Stephen L Burton

Movant(s):

Lonnie C. Lindell

Represented By
G. Warren Bleeker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

10:00 AM

2:21-18011 Elvia Heredia

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

AZTEC FINANCIAL, INC.
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant in part and continue in part to 11/16/21 at 10:00 a.m. as set forth below.
Appearances are not required on 11/9/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Relief notwithstanding *future* bankruptcy cases.

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CONT...

Elvia Heredia

Chapter 13

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Daniela Cecilia Uribe, guarantor; and Marc & Jewls, LLC; Daniela Cecilia Uribe, Managing Member. See Promissory Note & addenda (dkt. 9, Ex.A), at PDF pp. 4-5.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Party Information

Debtor(s):

Elvia Heredia

Pro Se

Movant(s):

Aztec Financial, Inc.

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Elvia Heredia

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 9, 2021

Hearing Room 1545

10:00 AM

2:18-21831 Cassandra E. Rosser

Chapter 13

#4.00 Cont' hrg re: Motion for relief from stay [RP]
fr. 10/12/21

SELECT PORTFOLIO SERVICING INC
VS
DEBTOR

Docket 70

Tentative Ruling:

Tentative Ruling for 11/9/21:
Appearances required.

At the hearing on 10/12/21 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address whether an agreement has been reached regarding the terms of an adequate protection order.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 10/12/21:
Appearances required.

Key documents reviewed (in addition to motion papers): Opposition to Motion for Relief from the Automatic Stay ("Debtor's response," dkt. 76)

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (See Debtor's response, dkt. 76).

If you are making an appearance, note that hearings are now simultaneously

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CONT... Cassandra E. Rosser

Chapter 13

(1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Party Information

Debtor(s):

Cassandra E. Rosser

Represented By
Heather J Canning
Barry E Borowitz

Movant(s):

Select Portfolio Servicing Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 9, 2021

Hearing Room 1545

10:00 AM

2:21-17883 Trisha Franklin

Chapter 13

#5.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 17

Tentative Ruling:

Grant, subject to any opposition (due 11/5/21 at noon) and further subject to the following conditions. Appearances required.

Shortened notice and attorney fees

Per this Court's Order setting this hearing on shortened notice (dkt. 20), and the issues noted therein, Debtor's attorney is directed to address why an order shortening time ("OST") was necessary for this hearing. More specifically, (x) why was an application for OST needed when this type of motion already qualifies for automatically shortened time, and (y) as this case was filed on October 13, 2021, why did it take until October 25, 2021 to prepare and file this motion?

As noted in this Court's order, Debtor's attorney is cautioned that continuation of his recent practice of applying for OSTs without necessity may result in sanctions or alternate remedies. Further, in accordance with that Order, the tentative ruling is to deny any attorney fees Debtor's attorney may request in future for the application for OST.

Automatic stay

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may

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CONT...

Trisha Franklin

Chapter 13

present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to prevent a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Party Information

Debtor(s):

Trisha Franklin

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

11:00 AM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#1.00 Hrg re: Motion for Sale of Proprietary Database

Docket 222

Tentative Ruling:

Appearances required.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Key documents reviewed (in addition to motion papers): No opposition on file

Analysis:

The tentative ruling is to grant the sale motion and conditionally authorize a sale free and clear (11 U.S.C. 363(b) & (f)), subject to the following conditions. First, the proposed sale is subject to overbids, pursuant to the proposed auction procedures including the anonymity of bidders so as to reduce the risk of collusion and increase the sale price of parties who may fear litigation with Wyndham. See dkt. 222, p.5:21-28.

Second, the Trustee is directed to address the following issues, which might affect whether the sale can be approved:

(i) Clarification of overbid procedures & auction date

The Trustee is directed to provide clarification about the following issues:

First, the motion is inconsistent about the deadline for any overbidder(s) to deliver a cashier's check to the trustee. See dkt. 222, p. 2:2-4 (requiring delivery of cashier's check prior to the hearing on the sale motion) and *compare id.*, p.6:26-27 (requiring delivery of cashier's check prior to the unspecified auction date).

Second, it is not clear what date the Trustee proposes to conduct an auction or how interested parties will be informed about that date. See dkt. 222, p. 6:28 ("The auction will take place on or after January 5, 2021") (emphasis added).

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CONT...

Attitude Marketing, Inc.

Chapter 7

(ii) Notice

It does not appear that the Trustee has complied with LBR 6004-1(f), which requires use of F 6004-2.NOTICE.SALE. The tentative ruling is to set a **deadline of 11/16/21** for Trustee to do so.

(iii) Grounds for sale free and clear

The Trustee is directed to specify at the hearing the precise legal grounds for a sale free and clear - *i.e.*, is it under 11 U.S.C. 363(f)(1), (2), (3), (4) or (5), and what the alleged grounds are under each paragraph that is applicable. See "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "363(f)").

In addition, the Trustee is directed to file a supplemental declaration following the hearing that attaches evidence establishing the existence (or nonexistence) of all persons who may assert an interest in the property and that such persons have been served with the motion papers, so that it is apparent what interests the Trustee intends to sell free and clear of, and that all such persons received notice. See Rule 6004(c) (Fed. R. Bankr. P.).

(iv) "Good faith" finding

The Trustee seeks a "good faith" finding under 11 U.S.C. 363(m). The tentative ruling is that any winning bidder who wishes to have such a finding must file declaration(s), and so must the Trustee, substantially in the form set forth in the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov). See *In re R.B.B., Inc.*, 211 F.3d 475, 478-80 (9th Cir. 2000) (no good faith finding when identity of purchaser was ambiguous).

Conceivably it is possible that even such declarations could keep the identity of the purchaser secret (either by declining to provide any information from which the purchaser could be identified or, possibly, by filing such a declaration under seal - although sealing documents and *in camera* review are disfavored). But any such partial disclosure would substantially weaken the evidence of good faith, as compared with disclosures to the public who might know reasons to question the alleged good faith.

Therefore, if the purchaser chooses to seek a good faith finding without revealing its identity, this Court might elect, after reviewing the declaration, to decline to make any good faith finding. In addition, a good faith finding is only as good as the evidence provided. See, *e.g.*, *In re Thomas*, 287 B.R. 782, 785-86 (9th Cir. BAP 2002) (noting that "good faith" findings are not required, and even if they often are based on a partial record "before the really interesting facts emerge" and therefore might be subject to

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11:00 AM

CONT... Attitude Marketing, Inc.

Chapter 7

reconsideration).

In sum, any purchaser who wants a "good faith" finding under section 363(m) might need to reveal its identity. But this Court notes that such a finding is neither necessary for a sale nor a "trump card" that will insulate the sale from later challenges. Therefore any good faith finding might be unnecessary.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling.

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 9, 2021

Hearing Room 1545

1:00 PM

2:21-17872 Crown Jewel Properties, LLC

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely service of order setting principal status conference

Debtor serve this Court's order setting principal status conference (dkt. 4) ten days late. See POS (dkt. 12). Debtor and its counsel are cautioned that failure to comply with deadlines in future may result in adverse consequences.

(b) Budget motion, and affiliate reporting

Subject to clarification of past transactions between Debtor and Co-Debtor Golo, LLC ("Golo"), the tentative ruling is to excuse the requirements for a budget motion and affiliate reporting, for the reasons stated in the declaration of Debtor's principal, Mr. Eleopoulos (dkt. 23). Specifically, Debtor discloses that it has made a "transfer" for the benefit of Golo, in that Golo was the "borrower under a loan from Paradise Wire & Cable ['Paradise'], which is secured by the second deed of trust on the Property [vacant land in the City of Carlsbad]." *Id.*, p.2:23-25. What are the details of that loan and any associated transaction(s)?

For example, does this cryptic disclosure mean that Debtor borrowed \$1 million from Paradise, transferred all \$1 million to Golo for no consideration, and now requests that there be no accounting of the use of that \$1 million? Debtor and/or its counsel are directed to make an offer of proof on this issue at the status conference.

(2) Dates/procedures. This case was filed on 10/12/21.

(a) Bar date: 12/31/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 4 (served 10 days late, dkt. 12)

(c) Plan/Disclosure Statement: file by 1/12/22 (DO NOT SERVE - except on the U.S. Trustee). See the "Procedures of Judge

**United States Bankruptcy Court
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CONT...

Crown Jewel Properties, LLC

Chapter 11

Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 12/21/21 at 1:00 p.m., *brief* status report due 12/14/21.

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Party Information

Debtor(s):

Crown Jewel Properties, LLC

Represented By
Douglas M Neistat

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 9, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#2.00 Hrg re: Motion for relief from stay [RP]

CLAUDINE SOKOL
vs
DEBTOR

Docket 70

***** VACATED *** REASON: Continued to 11/30/21 at 1:00 p.m. pursuant
to the parties' stipulation (dkt. 76) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn
Steven Werth

Movant(s):

Claudine Sokol

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#2.10 Cont'd Status Conference re: Chapter 11 Case
fr. 8/31/21, 9/14/21, 10/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Continue as set forth below. Appearances are not required on 11/9/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 7/19/21.

(a) Bar date: 12/9/21 (dkt. 46; timely served, dkt. 51)

(b) Procedures order: dkt. 4 (timely served, dkt. 10)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 11/30/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn

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1:00 PM

CONT... Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:21-15809 Jose Guillermo Ontiveros, Jr.

Chapter 11

#3.00 Hrg re: Motion for relief from stay [PP]

DAIMLER TRUST
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

Appearances are not required.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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1:00 PM

CONT... Jose Guillermo Ontiveros, Jr.

Chapter 11

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

Movant(s):

Daimler Trust

Represented By
Randall P Mroczynski

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Tuesday, November 9, 2021

Hearing Room 1545

1:00 PM

2:21-15809 Jose Guillermo Ontiveros, Jr.

Chapter 11

#4.00 Hrg re: U.S. Trustee Motion to Dismiss or Convert Case

Docket 43

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5, 11/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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#5.00 Cont'd Status conference re: Chapter 11 case
fr. 8/31/21, 10/12/21, 10/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Appearances required.

(1) Current issues

(a) Motion for Relief from Stay (dkt.49)

Grant. Please see the tentative ruling for Calendar No. 3.

(b) Monthly Operating Reports ("MORs")

This Court has reviewed Debtor's third amended MOR for the month of August (dkt. 62), and is yet again left questioning whether Debtor is taking his responsibilities in this case seriously. This Court's prior tentative rulings directed Debtor to correct various issues with each version of Debtor's August MORs, yet this fourth attempt remains unsatisfactory. See Tentative Rulings for 10/12/21 & 10/26/21 (reproduced below).

Debtor's third amended *August* MOR attaches bank statements for *September* transactions. See dkt. 62 at PDF pp.5-13. In addition, the several versions of Debtor's August MOR list different figures for Debtor's Cash Receipts and Disbursements, without offering any explanation. *Compare* dkt. 28 at p. 2, pt. 1 (\$7,264.00 receipts, \$31.00 disbursements) *with* dkt. 52 at p. 2, pt. 1 (same); dkt. 54 at p. 2, pt. 1 (\$10,659.00 receipts, \$3,411.00 disbursements); *and* dkt. 62. at p. 2, pt. 1 (\$11,879.00 receipts, \$4,631.00 disbursements). How can creditors, the United States Trustee ("UST"), or this Court rely on Debtor's financial reporting?

(c) UST's Motion to Dismiss or Convert (dkt. 43); Debtor's Opposition (dkt. 61); no reply is on file as of the preparation of this tentative ruling

The UST requests conversion or dismissal of this case due to Debtor's failure timely to provide (i) evidence of closing of prepetition accounts and opening DIP accounts, (ii) evidence of insurance coverage, (iii) evidence of

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recording of Debtor's bankruptcy petition in country real estate records, (iv) copies of tax returns, (v) MORs, and (vi) quarterly UST fees. See dkt. 43 at pp. 2-3. Section 1112(b)(2)(4) provides that cause for conversion or dismissal includes both the failure to timely provide information reasonably requested by the UST, and the unexcused failure to timely satisfy any applicable filing or reporting requirement. 11 USC 1112(b)(2)(4)(F), (H).

Debtor asserts that the missing items either have been provided or will be provided by this hearing date. See dkt. 61. The tentative ruling is that this is too late.

For example, the point of requiring evidence of insurance, with the UST as a named party on each policy, is so that the UST can assure that creditors are protected if one of Debtor's properties were to burn to the ground soon after the petition was filed. This case was filed on 7/19/21. Debtor purports to have provided evidence of insurance on 10/7/21, two and a half months later. That is completely inadequate. At the very least, that places an undue burden on the UST to attempt (with limited resources) to police this issue; and if there was any gap in insurance it also exposes the estate to undue risk of loss.

Another example is recording of the bankruptcy petition, which is intended to protect both existing creditors and any *bona fide* purchaser against the possibility of a (desperate or fraudulent) postpetition transfer of property of the bankruptcy estate without authorization, and possible loss or dissipation of the proceeds. Debtor claims to have provided this evidence on 10/15/21. Again, that is completely inadequate.

As for the MORs, the deficiencies are noted in the preceding section of this tentative ruling. Similarly, it places an undue burden on the UST to provide tax information and quarterly payments late.

The tentative ruling is that, although it is unclear exactly how to allocate responsibility for some of these things as between Debtor himself and his counsel, nevertheless (x) Debtor himself is responsible for signing the MORs (under penalty of perjury), obtaining insurance, providing his counsel with evidence of insurance, and other things; (y) Debtor has not claimed ignorance of his obligations, nor does it appear that he could claim ignorance because he does not deny having been advised of his responsibilities at the Initial Debtor Interview ("IDI"), at the meeting of creditors under 11 U.S.C. 341(a), and (belatedly) at the (continued) status conference on 10/12/21 (having failed to attend the status conference on 8/31/21 as ordered by this Court

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(dkt. 6); and (z) in any event, Debtor has not cited any factual or legal grounds to shift the blame to his counsel.

The tentative ruling is that conversion appears to be in the best interest of creditors and the estate due to Debtor's apparent equity in real property, as listed in his amended Schedule D, which can be administered by Chapter 7 Trustee for the benefit of creditors. See dkt. 13 at PDF pp.4-7; see also *In re Sullivan*, 522 B.R. 604, 612 (9th Cir. BAP 2014). Additionally, this Court has not identified any unusual circumstances that would establish converting this matter not to be in the best interest of creditors and the estate. See 11 USC 1112(b)(2).

Accordingly, the tentative ruling is to grant the UST's motion and convert this case to Chapter 7.

Note: As stated above, Debtor's counsel appears to bear partial responsibility for the lack of compliance in this case. For example, recording the bankruptcy petition (and providing evidence of such recording to the UST) is counsel's responsibility. Likewise, failure timely to serve this Court's procedures order (see dkt. 6, 16 & 55) is counsel's responsibility. This Court will address any concerns about counsel's work in connection with any fee application submitted by counsel.

(2) Dates/procedures. This case was filed on 7/19/21.

(a) Bar date: 11/16/21 (dkt. 26, timely served, dkt. 35 & 56)

(b) Procedures order: dkt. 6 (belatedly served, dkt. 16 & 55)

(c) Plan/Disclosure Statement: N/A

(d) Continued status conference: None

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 10/26/21:

Continue as set forth below. Appearances are not required on 10/26/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge

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Chapter 11

Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

(1) Current issues

(a) Debtor's Utility Motion (dkt. 40-42); no opposition is on file as of the preparation of this tentative ruling

This Court has concerns about whether service on the one utility at issue, the Los Angeles Department of Water and Power ("LADWP"), was in compliance with Rule 7004(a)(6) (Fed. R. Bankr. P.) (service must be on person or office required by State law, or CEO) (see *also* CCP 416.50, service on public entity). Nevertheless, the tentative ruling is that (x) the LADWP appears to have received sufficient notice for due process concerns; (y) it can always seek reconsideration; and meanwhile, (z) although the proposed "assurance of payment" does not appear to meet the requirements of 11 U.S.C. 366(c)(1)(A), nevertheless it appears to be in the interests of both LADWP and the bankruptcy estate to confirm that Debtor may continue to make regular monthly payments, as requested in the Utility Motion. Therefore, the tentative ruling is to grant the Utility Motion.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)), and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

(b) Monthly Operating Reports ("MORs")

Debtor's second amended MOR for August, 2021 (dkt. 54) still fails to provide information regarding Debtor's income from rental properties. As stated in this Court's Tentative Ruling for 10/12/21, part "(1)(b)(i)" (reproduced below):

(i) No breakdown of monthly income

Debtor apparently has monthly income from both employment and real property, but has failed both in his bankruptcy Schedule "I" **and his MORs** to provide a breakdown for each real property of gross receipts, ordinary and necessary business expenses, and a calculation of the resulting monthly net income. ... [Emphasis added.]

Debtor is, once again, directed to correct this issue. According to

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Debtor's amended Bankruptcy Schedules "I" and "J" (dkt. 53 at PDF p.8), Debtor has substantial income and expenses related to several different rental properties, so this is a very troubling omission and calls into question whether Debtor is taking his responsibilities in this case with sufficient seriousness.

The tentative ruling is to set a **deadline of 11/2/21** for Debtor to file a third amended MOR for August, 2021 with (A) separate bank account statements for each rental property and (B) a summary of income and expenses, separately reported by rental property, similar to what is provided in Debtor's amended Bankruptcy Schedules "I" and "J." See dkt. 53 at PDF p.8.

(2) Dates/procedures. This case was filed on 7/19/21.

- (a) Bar date: 11/16/21 (dkt. 26, timely served, dkt. 35 & 56)
 - (b) Procedures order: dkt. 6 (belatedly served, dkt. 16 & 55)
 - (c) Plan/Disclosure Statement: file by 1/14/22
 - (d) Continued status conference: 11/9/21 at 2:00 p.m., concurrent with other matters. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 10/12/21:

Appearances required by counsel for Debtor and by Debtor(s) themselves.

(1) Current issues

(a) Eviction efforts

Debtor should be prepared to address the status of any efforts to evict tenants in the 1763 and Anzac properties.

(b) Monthly operating reports ("MORs")

Debtor should be prepared to address the following issues.

(i) No breakdown of monthly income

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Debtor apparently has monthly income from both employment and real property, but has failed both in his bankruptcy Schedule "I" and his MORs to provide a breakdown for each real property of gross receipts, ordinary and necessary business expenses, and a calculation of the resulting monthly net income. See dkt. 1, PDF pp. 34-35 (Schedule "I" and instructions for line "8a"). Where is Debtor's money coming from?

(ii) August expenses

According to Debtor's MOR for the month of August, Debtor only had \$31 worth of expenses, living and/or other (dkt. 28, p.4, lines 8g-h). Is Debtor accurately representing his expenses?

(iii) Cash balance at beginning of August

Debtor's MOR for August also states a cash balance of \$0.00 at the beginning of the month (dkt. 28, p. 2, line 1a). But Debtor's MOR for the prior month states Debtor's cash balance at the end of July was \$235 (dkt. 27, p.2, line 1d). Where is the disconnect?

(iv) Transaction history

Debtor has provided a detailed transaction history of one of his Wells Fargo accounts for (most of) the month of July (dkt. 27, Exhibit, at PDF pp. 26-29), but has failed to submit any similar breakdown for the month of August. Why?

The tentative ruling is to set **a deadline of 10/19/21** for Debtor to file corrected MORs.

(c) Mandatory court form

Based on this Court's review of the record, Debtor's counsel has filed a "Declaration of Service" (See dkt. 16 & 35) instead of the Court's mandatory proof of service form (F9013-3.3.1.PROOF.SERVICE) on multiple occasions. This is problematic as it requires Court staff to do an additional line by line comparison to ensure compliance and, more importantly, it fails to include the server's declaration under penalty of perjury. Although this Court notes that Debtor's counsel has previously utilized the mandatory form (See dkt. 14, 21, 33), Debtor's counsel is cautioned that failure to use this Court-mandated form in future without permission of the Court may result in this Court striking non-compliant papers or other adverse consequences. In addition, the tentative ruling is to set **a deadline of 10/19/21** for Debtor to file corrected proofs of service.

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Chapter 11

(2) Dates/procedures. This case was filed on 7/19/21.

(a) Bar date: 11/16/21 (dkt. 26, timely served, dkt. 35)

(b) Procedures order: dkt. 6 (served, dkt. 16, but not timely)

(c) Plan/Disclosure Statement: file by 1/14/22

(d) Continued status conference: 10/26/21 at 2:00 p.m., concurrent
with other matters. No written status report is required.

*Warning: special procedures apply (see order setting initial status
conference).

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(1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov
telephone. For ZoomGov instructions for all matters on calendar, please see
page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 5/11/21, 6/29/21, 8/31/21,
10/12/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Continue as set forth below. Appearances are not required on 11/9/21 (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.").

(1) Current issues

(a) Debtor's amended draft disclosure statement (dkt. 92) and amended draft plan (dkt. 93)

The tentative ruling is to set a **deadline of 11/30/21** for Debtor to file, **BUT NOT SERVE** on anyone except the United States Trustee and parties requesting a copy, manually "blacklined" and "clean" copies of an amended Disclosure Statement and, if needed, an amended Plan, to address the issues discussed below. Those amended documents will be reviewed at the next Status Conference.

(i) Liquidation analysis

Debtor appears to have divided her liquidation analysis between page 5 of the Disclosure Statement and Exhibit B (dkt. 92, at PDF p.24). The tentative ruling is that Debtor (x) should combine the two pages into a single Exhibit B (with a cross-reference to Exhibit B on p.5 of the Disclosure Statement), (y) label Exhibit B as a "liquidation analysis," and (z) include in Exhibit B the estimated costs involved if this case were converted to chapter 7 (*i.e.*, Chapter 7 trustee fees and expenses), provide an explanation for that estimate (\$24,634.75, per dkt. 92, p.5), and a comparison of the likely percentage that general unsecured creditors could anticipate receiving in a chapter 7 case (apparently, 0%) compared to what Debtor is proposing through her amended plan (5% or possibly more).

In addition, it appears Debtor's math is wrong (although perhaps the

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Chapter 11

error is harmless).

Although Debtor appears to correctly calculate that the sum of her assets is \$434,005.00 [\$380,000 (residence) + \$1,704 (vehicle) + \$1,400 (personal property) + \$50,901 (cash) = \$434,005.00], and that the sum of her secured claims is \$380,165.01 [\$305,784.91 (residence) + \$13,896 (IRS) + \$60,484.10 (FTB) = \$380,165.01], that yields a difference of **\$53,839.99**, which represents the liquidation value of Debtor's assets [\$434,005.00 - \$380,165.01 = \$53,839.99]. But it appears that Debtor has omitted the secured claims of the IRS and FTB in her calculation for the total liquidation value, which overstates the liquidation value of Debtor's assets.

(ii) Minor additional changes to Amended Disclosure Statement

Debtor should indicate whether payments to Priority Unsecured Creditors (x) will be annually, quarterly, or monthly (dkt. 92, p.2) and also (y) whether those payments will begin on the first day of each calendar month or quarter after the Effective Date. *Id.*

Debtor should check the box next to "Available Cash" in Part 3 under the Source(s) of Payments under the Plan section. Dkt. 92, p.4.

Debtor should include a footnote on Exhibit A (dkt. 92, PDF p.19) explaining that she will have sufficient cash on hand to pay the shortfall between her income and expenses on the Effective Date.

(iii) Reservation of rights for all parties in interest

This Court expresses no view whether the interest rates payable to tax authorities or secured creditors, or any other aspect of Debtor's proposed Plan and proposed Disclosure Statement will meet the requirements for final approval/confirmation. This Court presumes that Debtor either has negotiated or will negotiate those things, or will address those issues in response to any objections once this Court authorizes Debtor to serve a voting package on creditors. All parties rights are reserved.

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: see above.

(d) Continued status conference: 12/14/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Cynthia C. Rodriguez

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If you are making an appearance, not that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 10/12/21:

Continue as set forth below. Appearances are not required on 10/12/21 (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

(1) Current issues

(a) Debtor's draft disclosure statement (dkt. 83) and plan (dkt. 84)

The tentative ruling is to set a **deadline of 10/22/21** for Debtor to file, **BUT NOT SERVE** on anyone except the United States Trustee and parties requesting a copy, manually "blacklined" and "clean" copies of an amended Plan and amended Disclosure Statement to correct the issues discussed below, to be reviewed at the next Status Conference. The issues to be corrected are as follows:

(i) Effective Date

Modify the "Anticipated Effective Date" to state "Feb 1, 2022". Dkt. 83, p. 1 (emphasis added).

(ii) History of circumstances leading to bankruptcy filing

Debtor is directed to include in the Disclosure Statement a brief history of the facts and circumstances that resulted in Debtor filing this bankruptcy case in an amended Disclosure Statement, as required by 11 U.S.C. 1125(a) (1).

(iii) Prepetition claim, now held by Secretary of Housing and Urban Development, should be classified

Debtor's Plan (dkt. 84, p. 3) states that arrears owing to Class 2(a) secured creditor Wells Fargo will be converted to a HUD Partial Claims Mortgage. See also dkt. 83, Ex. E. The tentative ruling is that Debtor must modify the plan to classify that claim as Class 2(c).

(iv) Tax claims

First, Debtor's Plan asserts that there are no priority claims (dkt. 84, p.2), but Debtor's Disclosure Statement, Ex.A, lists tax claims that are

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secured and more tax claims that are priority. See dkt. 83-1, p.1, at bottom (payments of \$323.20/mo. on IRS secured claim plus \$4,092.94/mo. on IRS priority claim; and payments of \$1,406.65 on FTB secured claim plus \$166.38 on FTB priority claim). The Plan appears to have omitted substantial priority tax claims.

Second, the Plan classifies the secured tax claims in an "unimpaired" class (dkt. 84, p.4, Class 3, sub-classes (a) and (b)). But typically any payment over time would make the claim impaired under 11 U.S.C. 1124(1). Should these tax claims be in (impaired) Class 5?

(v) Administrative expense estimate

Debtor's Disclosure Statement estimates (dkt. 83, p.6) that she will have under \$14,000.00 left after paying administrative claims estimated at \$45,000.00. Is that estimate accurate? If there are funds left over, how will they be used?

(vi) Nonpriority unsecured claims (Class 6)

Some of Debtor's projected distributions are in tiny dollar amounts, as low as \$0.01/mo. See Discl. Stmt., Ex.C (dkt.83-3), p.1 (line item for Franchise Tax Board). The postage alone would exceed the distribution, let alone the expense of envelopes, labor to cut the checks and stuff the envelopes, etc. Should the Plan propose to include a "convenience class" of smaller claims (Class 6(a), at dkt.84, p.6)?

(vii) Liquidation analysis

Debtor has attached two different analyses, which appear to be internally inconsistent. *Compare* Discl. Stmt., Ex.B, p.1 (dkt.83-2) *with id.*, p.2.

(viii) Income and expenses

Debtor projects \$6,828.09 of disposable monthly income, based on monthly gross income of \$11,956.63 and expenses of \$5,128.54 "as set forth in Debtor's Declarations of Current/Postpetition Income and Expenses (LBR form F 3015-1.20.DEC.INCOME.EXPENSE), which have been prepared as of 9/13/2021 and are attached hereto as Exhibit A." Discl. Stmt. (dkt.83, Part "3.C"), at p.4 (emphasis added). No such exhibit is attached, but the tentative ruling is that the actual "Exhibit A" is better than such declarations, and that Debtor should modify the form Disclosure Statement to strike out the emphasized language above and replace the words, "the spreadsheet calculations" (or the equivalent).

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CONT... Cynthia C. Rodriguez

Chapter 11

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: see above.

(d) Continued status conference: 11/9/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, not that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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Tuesday, November 9, 2021

Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 7

Adv#: 2:21-01189 Aarons v. Haycock et al

#7.00 Cont'd hrg re: Motion for Remand of State
Court Action to California Superior Court
fr. 10/26/21

Docket 8

***** VACATED *** REASON: Order approving stip. to cont'd motion to
remand to 12/14/21 at 11:00 a.m. [dkt. 34]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Rika Kido

Shulman Bastian Friedman & Bui LLP

Defendant(s):

James Haycock

Represented By

Donna T Parkinson

Donna T Parkinson

Mortgage Lender Services, Inc

Pro Se

Movant(s):

Ashley Susan Aarons

Represented By

Mainak Dattaray

Michael R Totaro

Plaintiff(s):

Ashley Susan Aarons

Represented By

Mainak Dattaray

Michael R Totaro

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CONT... Ashley Susan Aarons

Chapter 7

Trustee(s):

David M Goodrich (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc and Logan Deaton

Chapter 11

#8.00 Cont'd Status Conference re: Post Confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20, 11/10/20, 2/9/21, 5/11/21,
6/1/21, 7/20/21, 8/17/21

Docket 1

***** VACATED *** REASON: Case closed (dkt. 742)**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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Hearing Room 1545

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

Adv#: 2:21-01079 Gonzales et al v. LAX In-Flite Services, LLC

#9.00 Cont'd status conference re: Complaint for determination that debt is nondischargeable (11 U.S.C. sections 523(a)(6); 523(a)(7))
fr. 7/6/21, 8/31/21, 9/28/21, 10/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Please see the tentative ruling for the main case status conference (Calendar No. 10, 11/9/21 at 1:00 p.m.).

[INTERIM TENTATIVE RULINGS (continuances) OMITTED]

Tentative Ruling for 7/6/21:

Appearances required.

(1) Current issues

(a) Background

No Answer is on file. Nor are there any motions to dismiss or other pleadings on file.

That said, the tentative ruling is that the lack of response is not dispositive because the docket in this adversary proceeding does not reflect proper service of the summons, Complaint, etc. on Debtor to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.), at an address that appears to be reasonably calculated to reach the officer (e.g., corporate headquarters). Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer or Managing/General Agent" is sufficient.

(b) The Complaint fails to state a claim for relief under section 523(a)

The tentative ruling is to dismiss the Complaint on this Court's own motion, under Rule 12(b)(6) (Fed. R. Civ. P.) (incorporated by Rule 7012, Fed. R. Bankr. P.), for failure to state a claim for relief. The two claims asserted in

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CONT... LAX In-Flite Services, LLC

Chapter 11

the Complaint (dkt.1, 3) are brought under 11 U.S.C. 523(a)(6) or (a)(7); but section 523(a), by its express language, only applies to **individual** debtors and not **corporate** debtors such as LAX In-Flight Services, LLC. See *In re Gordon's Music & Sound, Inc.*, 2012 Bankr. LEXIS 6133, at *2, 2012 WL 8250009, at *1-2 (Bankr. E.D. Cal. Oct. 12, 2012) (dismissing 523(a)(6) claim against corporate debtor and reasoning that "Congress clearly did not intend the term 'corporate debtor' to be used interchangeably with the term 'individual debtor'" (internal quotations and citations omitted); see also *Omar v. Sea-Land Serv. Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (citing *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981) ("A trial court may dismiss a claim sua sponte under Fed. R. Civ. P. 12(b)(6) ... [s]uch dismissal may be made without notice where the claimant cannot possibly win relief").

The tentative ruling is to dismiss with leave to amend, because the factual allegations in the Complaint, and its assertions about asserted violations of nonbankruptcy law, might be the basis to assert a cognizable claim. The tentative ruling is (i) to set a deadline of 7/20/21 for Plaintiffs to file a first amended complaint ("FAC") and serve their summons, FAC, etc. on Defendant/Debtor; and to set a continued status conference for 8/17/21 at 1:00 p.m., with a joint status report on this Court's Local Form due 8/3/21.

In addition, the parties are directed to address how to this matter can best be handled efficiently. For example, is mandatory mediation appropriate?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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CONT... LAX In-Flite Services, LLC

Chapter 11

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Yi S Kim

Defendant(s):

LAX In-Flite Services, LLC

Pro Se

Plaintiff(s):

Ruth Gonzales

Represented By
Moses S Bardavid

Andres Braubert

Represented By
Moses S Bardavid

Guillermo Gutierrez

Represented By
Moses S Bardavid

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21, 6/29/21, 7/6/21, 7/20/21,
8/31/21, 9/28/21, 10/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Continue as set forth below, with the deadline for minor revisions to the proposed plan as set forth below. Appearances are not required on 11/9/21.

(1) Current issues

(a) Debtor's first amended subchapter v plan of liquidation (dkt. 178)

The tentative ruling is to set a **deadline of 11/30/21** for Debtor to file, **BUT NOT SERVE** on anyone except the United States Trustee and parties requesting a copy, manually "blacklined" and "clean" copies of an amended Plan to address the issues discussed below, to be reviewed at the next Status Conference.

(i) Distributions to Class 2 general unsecured creditors

There appears to be a minor discrepancy between the Recovery Analysis in Exhibit C, which projects a distribution of \$49,021.42 to Class 2 (dkt. 178, at PDF p. 19), and Exhibit D (*id.*, at PDF p. 23), which projects total distributions to Class 2 of \$50,154.54. It appears that this can be addressed with either a minor mathematical correction, use of a modifier such as "approximate," or some other explanation.

(ii) Small Business Administration

The last endnote in Exhibit C (dkt. 178, at PDF p. 19) ("Percentage Recovery") says "See Exhibit C for more detail." That is a circular reference, and in any event there does not appear to be any more detail about the likelihood of the Small Business Administration forgiving Debtor's paycheck protection program loan. It appears that this can be corrected with a minor explanation that endnote, or other appropriate modification.

(iii) Typo re priority tax claims

Page 3 of the Plan refers to "priority tax claims under section 507(a)

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CONT... LAX In-Flite Services, LLC

Chapter 11

(2)." Plan (dkt. 178), p.3 (penultimate paragraph, emphasis added). The correct reference would appear to be section 507(a)(8).

(b) Outstanding order on Debtor's stipulation with Ms. Castaneda for relief from stay

This Court's 10/26/21 tentative ruling (copied below) directed Debtor to work with Ms. Castaneda's counsel to arrange for someone to lodge a proposed order on her stipulation with Debtor (dkt. 158) for relief from stay within 7 days of that hearing date. The docket reflects that Ms. Castaneda's counsel filed a Notice of lodgment (dkt. 172) on 10/25/21, but as of the preparation of this tentative ruling, no order has actually been lodged.

It seems likely that Ms. Castaneda's counsel does not understand the difference between a notice of lodgment and actual lodgment. Counsel for Debtor is directed to assist counsel for Ms. Castaneda to lodge a proposed order.

(c) Gonzales et al v. LAX In-Flite Services (2:21-ap-01079-NB)

In view of the Class Action Claim Treatment Agreement, the tentative ruling is to continue this matter concurrent with the continued status conference in the bankruptcy case (see below).

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: see above

(d) Continued status conference: 12/14/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

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Tentative Ruling for 10/26/21:

Continue as set forth below. Appearances are not required on 10/26/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

(1) Current issues

(a) Main case status conference

At the hearing on 9/28/21, this Court directed creditor Susana Castaneda to lodge a proposed order on her stipulation with Debtor (dkt. 158) for relief from stay. This Court notes that on 9/29/21 Ms. Castaneda filed a proposed order on the docket (dkt. 161), but that is not the same thing as lodging a proposed order with this Court's Lodged Order Uploading ("LOU") system. Debtor is directed to work with Ms. Castaneda and her counsel to arrange for someone to lodge a proposed order within 7 days after this hearing date.

(b) Gonzales et al v. LAX In-Flite Services (2:21-ap-01079-NB)

Continue this matter concurrent with the continued status conference in the bankruptcy case (see below).

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: file by 11/1/21 (per dkt. 167 and order thereon) (DO NOT SERVE - except on the U.S. Trustee). See the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 11/9/21 at 1:00 p.m. No written status report required.

***Warning:** special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov

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Chapter 11

telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Yi S Kim

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:18-12429 Dana Hollister

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21, 6/15/21, 7/8/21, 7/20/21, 8/18/21,
8/19/21, 9/9/21, 9/28/21, 10/12/21 10/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Continue as set forth below. Appearances are not required on 11/9/21. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

(1) Current issues

The Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 12/14/21 at 1:00 p.m. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If you are making an appearance, note that hearings are now simultaneously

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(1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410, 1497, 1503, 1533)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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Hearing Room 1545

2:00 PM

2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#1.00 Hrg re: Motion Of Debtor And Debtor-In-Possession
For Entry Of An Order Approving Operating Budget

Docket 62

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
11/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:00 PM

2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#2.00 Hrg re: Application Of Debtor And Debtor-In-Possession
For Authority To Employ Winthrop Golubow Hollander,
LLP As Its General Insolvency Counsel

Docket 63

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
11/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:00 PM

2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#3.00 Hrg re: Motion Of Debtor And Debtor-In-Possession For Entry Of An Order Authorizing Debtor To: (1) Engage Richard Munro As Chief Restructuring Officer Of The Debtor; And (2) Employ Invenz, Inc. To Assist The Chief Restructuring Officer

Docket 64

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5, 11/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#4.00 Hrg re: Application Of Debtor And Debtor-In-Possession
For Authority To Employ FSG Lawyers, PC As Special
Corporate And Litigation Counsel

Docket 65

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
11/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:00 PM

2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/22/21, 10/12/21

Docket 1

Tentative Ruling:

Tentative Ruling for 11/9/21:

Grant relief, and continue the status conference, as set forth below.

Appearances are not required on 11/9/21.

(1) Current issues

(a) Budget Motion (dkt. 62); no opposition on file
Grant.

(b) Employment Applications

(i) General insolvency counsel (dkt. 63); no opposition on file
Grant.

(ii) Chief Restructuring Officer (dkt. 64); no opposition on file
Grant.

(iii) Special corporate and litigation counsel (dkt. 65); no
opposition on file
Grant.

Proposed order(s): Unless otherwise ordered, Movant is directed to
lodge proposed order(s) on the foregoing matter(s) via LOU within 7
days after the hearing date (per LBR 9021-1(b)(1)(B)).

(2) Dates/procedures. This case was filed on 9/16/21.

(a) Bar date: 11/26/21 per General Order 20-01 (70 days after petition
date in Subchapter V cases) (DO NOT SERVE any notice: one
will be sent by the Court, see dkt. 31).

(b) Procedures order: dkt. 4 (timely served, dkt. 42)

(c) Plan*: 12/15/21

(d) Continued status conference: 1/25/22 at 1:00 p.m. No written
status report required.

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Lorna Jane USA, Inc.

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

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2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#6.00 Cont'd Order to Show Cause re: Civil Contempt Against Young Young Food LLC, and For Sanctions fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 6/1/21, 6/15/21, 7/20/21, 8/3/21, 9/14/21, 10/19/21

Docket 213

Tentative Ruling:

Tentative Ruling for 11/9/21:

Appearances required.

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

(1) YYF Coercive Sanctions Order (dkt. 289)

The YYF Coercive Sanctions Order provided that YYF "shall be liable for \$500 in daily sanctions for each day after December 1, 2020" that it fails to produce/provide documents and information responsive to the Alleged Employees' discovery requests (dkt. 289, p.2:4-10). That order also provided that YYF "may with notice to all parties seek leave of Court to lift these daily sanctions on the basis of YYF's compliance with this Court's Orders" (*id.*, p.2:11-12).

Based on this Court's calculations, as of the date of this hearing, coercive sanctions have accrued in the amount of **\$171,000.00** (342 days x \$500/day) and there is no evidence that YYF has made a single payment, produced any discovery, or otherwise asserted grounds to avoid the accrual of future sanctions.

The parties are directed to address what alternative coercive measures this Court should impose, and whether this Court should set supplemental briefing deadlines for the parties to brief that issue, in view of YYF's continuing failure to comply with this Court's orders.

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GL Master Inc

Chapter 7

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods); dkt. 276, 291, 327, 330, 336, 365, 361, 366 (sanctions v. Debtor, ChaoLaw, Ms. Freda Wang, etc.); dkt. 336, 337, 366 (sanctions v. Mr. Polis).]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#7.00 Cont'd Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 06/01/21, 6/15/21, 7/20/21, 8/3/21, 9/14/21, 10/19/21

Docket 173

Tentative Ruling:

**Tentative Ruling for 11/9/21:
Appearances required.**

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

(1) Current issues

(a) Coercive sanctions

At the hearing on 10/19/21, this Court was persuaded to suspend *payment* but not the *accrual* of \$500.00/daily coercive sanctions per Contemnor to allow time for the parties to focus their efforts on cooperating with a forensic analysis of their electronic files and databases. At the continued status conference (see Section 2, below), this Court will determine whether/when payments should resume.

(b) Ongoing obligation to comply with discovery orders

The Contemnors are cautioned that this Court's suspension of their obligation to pay accruing coercive sanctions in no way excuses their ongoing obligation to comply with the discovery orders, including providing full cooperation with the forensic analysis.

As this Court has explained many times before, all persons subject to

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CONT... GL Master Inc

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this Court's discovery orders have the burden to show categorically and in detail that they have taken all reasonable steps within their power to comply with this Court's discovery orders and that further compliance is impossible. See, e.g., Memorandum Decision (dkt. 276), p. 27:21-26; Tentative Ruling (dkt. 361), p. 4:15-20; Tentative Ruling (dkt. 394), p. 2:11-16.

For example, as this Court understood Mr. Johnny Ling's 10/19/21 testimony, in reviewing his email accounts for responsive emails, he turned over documents that specifically referenced GL Master, Little Sheep International, and Guangyang International LP (co-defendant in the State Court action), but did not produce emails or documents that included/involved other entites (e.g., Little Sheep San Gabriel) on the grounds that such documents were protected by the attorney-client privilege. But it is not clear whether those documents were ever listed on a privilege log. Nor is it clear whether Mr. Ling determined that emails sent to *both* Debtor and other entities (e.g., Little Sheep San Gabriel) and/or documents involving transactions with Debtor and some other entity were withheld from production on attorney-client privilege grounds. In either case, the tentative ruling is that those documents must be produced because this Court has ruled that any assertion of attorney-client privilege has been waived and/or forfeited. See dkt. 361, pp. 9:20-10:3 & dkt. 366, p. 4:10-16.

This is just one example, but the point is that the Contemnors have consistently taken an overly narrow view of their ongoing discovery obligations. The tentative ruling is that these contempt proceedings will continue until the Contemnors have established categorically and in detail that that is no longer the case.

(2) Dates/deadlines

The tentative ruling is to continue this matter to 12/14/21 at 2:00 p.m.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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2:18-24302 GL Master Inc

Chapter 7

#8.00 Con't Evidentiary hrg re: Order Directing Thomas J. Polis, Esq. To Show Cause Why This Court Should Not Impose Sanctions Against Him fr. 8/31/21, 9/14/21, 10/19/21

Docket 337

Tentative Ruling:

Tentative Ruling for 11/9/21:

This matter is under submission. Appearances are not required on 11/9/21.

Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, note that hearings are now simultaneously (1) in person in the courtroom, (2) via ZoomGov video, and (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
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2:21-15809 Jose Guillermo Ontiveros, Jr.

Chapter 11

#9.00 Cont'd Status conference re: Chapter 11 case
fr. 8/31/21,10/12/21, 10/26/21

Docket 1

***** VACATED *** REASON: This matter will be heard at 1:00 p.m. on
11/9/21, concurrent with other matters and the order entered thereon (dkt.
63).**

Tentative Ruling:

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama